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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,469	02/05/2004	Hideki Kabune	01-547	2958
23400 POSZ LAW G	7590 12/27/200 ROUP, PLC	EXAMINER		
12040 SOUTH	LAKES DRIVE	RIAD, AMINE		
SUITE 101 RESTON, VA	20191		ART UNIT	PAPER NUMBER
,			. 2113	
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SHORTENED STATUTOR	Y PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE	
3 MONTHS		12/27/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)				
	10/771,469	KABUNE ET AL.				
Office Action Summary	Examiner	Art Unit				
	Amine Riad	2113				
The MAILING DATE of this communication ap	opears on the cover sheet w	vith the correspondence address				
A SHORTENED STATUTORY PERIOD FOR REPI WHICHEVER IS LONGER, FROM THE MAILING [- Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the maili earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUN. 136(a). In no event, however, may a d will apply and will expire SIX (6) MC te, cause the application to become A	ICATION. a reply be timely filed ONTHS from the mailing date of this communication. ABANDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 09 I	Responsive to communication(s) filed on <u>09 November 2006</u> .					
,—	,—					
,—	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
closed in accordance with the practice under	Ex parte Quayle, 1935 C.	D. 11, 453 O.G. 213.				
Disposition of Claims						
4) ⊠ Claim(s) <u>1-15</u> is/are pending in the application 4a) Of the above claim(s) is/are withdra 5) ☐ Claim(s) is/are allowed. 6) ☒ Claim(s) <u>1-6 and 9-15</u> is/are rejected. 7) ☐ Claim(s) <u>7 and 8</u> is/are objected to. 8) ☐ Claim(s) are subject to restriction and/	awn from consideration.					
Application Papers						
9) The specification is objected to by the Examin 10) The drawing(s) filed on is/are: a) ac Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the E	cepted or b) objected to drawing(s) be held in abeyaction is required if the drawin	ance. See 37 CFR 1.85(a). g(s) is objected to. See 37 CFR 1.121(d).				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No	Summary (PTO-413) o(s)/Mail Date				
Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	5)	Informal Patent Application				

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Detailed Action

Claims 1-15 have been presented for examination.

Claims 1-6 and 9-15 have been rejected.

Claims 7 and 8 have been objected to.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6,9-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Gabara Patent Application Publication 2003/0043748.

In regard to claims 1 and 12,

Gabara discloses an electronic control unit comprising:

- A microcomputer; (Figure 1; Item 104) [Examiner considers item 104 FSM as microcomputer]
- A first internal timer and a second internal timer, (Figure 1; item 102) & (Page 2;
 Paragraph 23; "the DLL 102 also generates a divided by two clock signals")
 [because timer 102 includes a second clock to time captures inputs, Examiner considers it as second timer]

- The microcomputer includes a first input capture function for capturing a time of the first internal timer at which an edge of a square wave input signal is detected (Figure 1;Item 112-1 & 112-2) [Gabara discloses capturing data, Examiner considers time as data]
- The microcomputer further includes a second input capture function for capturing a time of the second internal timer at which the edge of the square wave input signal is detected (Figure 1; item 112-3 & 112-4) [Gabara discloses capturing data, Examiner considers time as data], and the microcomputer diagnoses at least one of the first and the second capturing functions by performing comparison between the time of the first internal timer and the time of the second internal timer. (Page 1; Paragraph 7; "The comparison circuit is configured to compare output signals generated by the first and second data capture elements, and supplies a result of the comparison back to the controller")

In regard to claims 2, 9 and 13,

Gabara discloses the electronic control unit according to claim 1, wherein the first internal timer and the second internal timer are configured in one timer. (Figure 1; item 102) [Both clock timers are within the same item 102]

In regard to claims 3, 10 and 14;

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Gabara discloses the electronic control unit according to claim 1, wherein the first internal timer and the second internal timer are independently configured. (Item 102; DDL 102 has two timers ck and ck/2)

In regard to claims 4, 11 and 15,

Gabara discloses the electronic control unit according to claim 1, wherein: the control of the actuator is disabled when one of the input capture function is determined as abnormal; the actuator is saved in a safe position; and the abnormal input capture function is reported. (Page 1; Paragraph 7; "The controller repeats the selection of particular test data and monitors corresponding comparison results until set-up and hold—times or other clocking characteristics of the first data capture element are determined to a desired level elements") [Examiner considers that When Gabara disclose repeat Gabara saves and reports before another test is submitted which matches with claim 4] In regard to claim 5,

Gabara discloses an electronic control unit comprising:

- A microcomputer for controlling an actuator; Figure 1; Item 104) [Examiner considers item 104 FSM as microcomputer]
- A first internal timer and a second internal timer; (Figure 1; item 102) & (Page 2;
 Paragraph 23; "the DLL 102 also generates a divided by two clock signals")
- A switching means, (Page 2; Paragraph 27; "the data capture circuit 100 has two
 modes of operation, a first or regular (R) mode, and second or self test mode ")

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Wherein the microcomputer includes a first input capture function for capturing a
time of the first internal timer at which an edge of each of square wave input
signals is detected, the microcomputer performs calculation for the control of the
actuator based on the time of the first internal timer, (Figure 1;Item 112-1 & 1122) [Gabara discloses capturing data, Examiner considers time as data]

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- The switching means selects the square wave input signals in orderly sequence for capturing, (Page 2 &3; Paragraph 28 and 29)
- The microcomputer further includes a second input capture function for capturing a time of the second internal timer at which the edge of the selected square wave input signal is detected, (Figure 1; item 112-3 & 112-4) [Gabara discloses capturing data, Examiner considers time as data]
- The microcomputer diagnoses at least one of the first and the second capturing functions by performing comparison between the time of the first internal timer and the time of the second internal timer. (Page 1; Paragraph 7; "The comparison circuit is configured to compare output signals generated by the first and second data capture elements, and supplies a result of the comparison back to the controller")

In regard to claim 6,

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Gabara discloses the electronic control unit according to claim 5, wherein the switching means is provided outside the microcomputer. (Figure; items 104 and 102) [It is clear that the switching is done at 102 not at 104 considered as the microcomputer]

Allowable Subject Matter

Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment

The declaration filed on November 9, 2006 under 37 CFR 1.131 has been considered but is ineffective to overcome the U.S. Patent Publication No. 2003/0043748 to Gabara reference.

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Gabara reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

Examiner acknowledges receiving Exhibit A containing 4 pages.

Pages 1, 2, 3, and 4 of Exhibit A contain what it appears to be a foreign language, and hand written notes in English letters. Examiner informs that applicant, did not show diligence in the completion of the invention, from time prior to the date of the reference

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continuously up to the date of actual reduction to practice or up to the date of filing the application. Examiner reminds Applicant that, in order to do so, Applicant must either show:

1) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent reduction to practice, or;
2) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application

Examiner is unable to determine what the hand written notes mean.

Examiner also notes in page 3 of Exhibit A, there is what it appears to be Figure one of the Application. Page 3 of Exhibit A is not a clear explanation as to how it is related to the claim language. In Summery Examiner cannot determine at least a relation between the Exhibit submitted, and the Application as claimed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amine Riad whose telephone number is 571-272-8185.

The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 571-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the

AR Amine Riad Patent Examiner 12/12/06

Robert Meansol A